

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:16-cr-00031-RLY-MPB
)	
EUGENE B. MAXWELL,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On June 17, 2019, the Court held an Initial Hearing on a Warrant for Violation of Supervised Release. Defendant Maxwell appeared in person with his appointed counsel Mark Foster. The government appeared by Lauren Wheatley, Assistant United States Attorney. The United States Probation and Parole Office appeared by Officer Jessica Campbell.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Maxwell of his rights and provided him with a copy of the petition. Defendant Maxwell waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Maxwell admitted violations 1, 2, and 3. ([Docket No. 45](#)).
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

	Violation Number	Nature of Noncompliance
	1	<p>"You shall reside in a residential reentry center for a term of up to 180 days. You shall abide by the rules and regulations of the facility."</p> <p>On March 11, 2019, Mr. Maxwell violated the VOA rules and regulations by being insubordinate, disrespectful, and displaying disruptive behavior. The VOA handled this violation internally and did not expel him from the program.</p> <p>On March 18, 2019, Mr. Maxwell violated the VOA rules and regulations by being in possession of an unauthorized cell phone device. As a result, Mr. Maxwell was discharged from the VOA. As Mr. Maxwell was being discharged from the VOA, he made verbal threats of physical violence against VOA staff.</p>
	2	<p>"You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage."</p> <p>On January 16, 2019, Eugene Maxwell submitted urinalyses that tested positive for cannabinoids. On January 8, 2019 Mr. Maxwell denied ingesting marijuana, but admitted to vaping CBD oil.</p> <p>As previously report to the Court, Mr. Maxwell on November 13, 23, 28, 2018, and January 8, 2019, submitted urinalyses that tested positive for cannabinoids. Mr. Maxwell admitted to marijuana use.</p>
	3	<p>"You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods."</p> <p>Eugene Maxwell failed to report for drug screens on the following dates: January 9, 11, 18, 23, 25, 30, 2019, February 8, 12, 15, 20, 28, 2019, and March 4, 2019.</p> <p>As previously report to the Court, Mr. Maxwell failed to report to drug screens on the following dates: May 11, 15, 17, 25, June 12, July 9, 20, 23, 24, 26, August 27, September 7, 25, 28, October 15, 18, 2018. and January 7, 2019.</p> <p>Eugene Maxwell submitted dilute urinalyses on October 22, November 13, 23, and 28, 2018.</p>

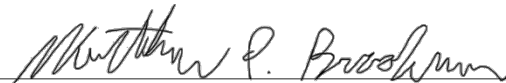
4. The parties stipulated that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant's criminal history category is V.
 - (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 7-13 months' imprisonment.

At the hearing, the parties jointly recommended a sentence of thirteen (13) months in the Bureau of Prisons, with no further supervision upon release from the BOP.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition as outlined above. The Magistrate Judge further recommends the Court accept the joint recommendation of the parties, as outlined above, and sentence the Defendant to the custody of the Attorney General or his designee for a period of thirteen (13) months, with no further supervision upon release.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: June 18, 2019



Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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